

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 3:19-cr-00132

CONNER RAY BLEVINS

RESPONSE OF THE UNITED STATES
TO DEFENDANT'S SENTENCING MEMORANDUM

Comes now the United States of America by Assistant United States Attorney, Jennifer Rada Herrald, and files this response to briefly address two matters raised by defendant's sentencing memorandum.

First, defendant presented argument as to why the enhancement under USSG § 4B1.5 should not apply to his case. The United States disagrees with defendant's interpretation of the relevant provisions of the Sentencing Guidelines and intends to present such arguments, if necessary, during the sentencing hearing. However, it may be unnecessary to address defendant's legal objections in order to find that the enhancement applies. Defendant acknowledges that the offense of conviction (the production of child pornography involving Minor Female 1 on October 6, 2018) counts as one occasion of prohibited sexual conduct. The United States submits that defendant's October 3, 2018, Facebook conversation, during which he persuaded Minor Female 2 to engage

in sexually explicit conduct (i.e., masturbation) and send him a live visual depiction of such conduct, constitutes a second occasion of production of child pornography (as set forth in 18 U.S.C. § 2251(a)). This second occasion involved a different minor and occurred on a different date, thus clearly qualifying as a separate occasion of prohibited sexual conduct. Based upon these two incidents of production of child pornography, the enhancement under § 4B1.5 applies to defendant notwithstanding defendant's arguments regarding the additional two instances of prohibited sexual conduct.

Second, the parties have presented radically different interpretations of the tone of the Facebook conversations between defendant and the victims, particularly with regard to which party was the sexual aggressor. However, the parties have submitted only a small portion of the entire conversation. In order for the Court to have the ability to make its own determination regarding the overall scope and tone of the messages, the United States will submit a complete copy of the Facebook conversation to the Court for potential in camera review.

Respectfully submitted,

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CERTIFICATE OF SERVICE

It is hereby certified that the foregoing "RESPONSE OF THE UNITED STATES TO DEFENDANT'S SENTENCING MEMORANDUM" has been electronically filed and service has been made on opposing counsel by virtue of such electronic filing this the 22nd day of October, 2019, to:

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